

DECLARATION OF RESTRICTIVE COVENANTS ON REAL PROPERTY

THIS DECLARATION OF RESTRICTIVE COVENANTS ON REAL PROPERTY is made by Charles Mann and the Bitterroot Valley Sanitary Landfill, Inc., as of _____, 2002.

RECITALS

WHEREAS, Charles Mann and/or the Bitterroot Valley Sanitary Landfill, Inc. are the owners of certain real property (the Subject Property) located in Ravalli County, Montana, more particularly described on the attached Exhibit "A";

WHEREAS, the Subject Property has been used as a landfill and is located within the Bitterroot Valley Sanitary Landfill State Superfund Facility (Facility) upon which hazardous or deleterious substances have come to be located;

WHEREAS, pursuant to the Consent Decree between Charles Mann, the Bitterroot Valley Sanitary Landfill, Inc., and DEQ in State of Montana ex rel Montana Department of Environmental Quality vs. Ribic Immunochem Research, Inc; Bitterroot Valley Sanitary Landfill, Inc.; and Charles Mann, Cause No. ADV 9700221, Montana First Judicial District Court, entered by the Court on May 5, 1998, Charles Mann and the Bitterroot Valley Sanitary Landfill, Inc. acknowledged that institutional controls and access would be necessary as part of selecting and implementing a final remedy for the Facility; and

WHEREAS, the Montana Department of Environmental Quality (DEQ) requires that Charles Mann and the Bitterroot Valley Sanitary Landfill, Inc. restrict development of the Subject Property and such restrictions must be recorded:

NOW, THEREFORE, Charles Mann and the Bitterroot Valley Sanitary Landfill, Inc. hereby agree and declare:

1. No wells may be drilled within the boundaries of the Subject Property without the express prior written approval of DEQ. Groundwater within the Subject Property may not be used for any purpose other than sampling without the express prior written approval of DEQ. The integrity of any monitoring wells must be maintained and no seals may be removed on any closed wells.
2. No soil or soil caps shall be disturbed in any manner, including without limitation drilling or excavation, without the express prior written approval of DEQ.
3. No residential, industrial, or commercial development shall occur upon the Subject Property. No structures, containments, footings for any purpose, or similar below ground appurtenances may be constructed upon the Subject Property.

4. No irrigation of any kind may occur on the Subject Property.
5. No action shall be taken, allowed, suffered, or omitted on the Subject Property if such action or omission is reasonably likely to create a risk of migration of hazardous or deleterious substances or a potential hazard to public health, safety, or welfare or the environment or result in a disturbance of the structural integrity of any engineering controls designed or utilized at the Facility to contain hazardous or deleterious substances or limit human or environmental exposure to the hazardous or deleterious substances.
6. Charles Mann and/or the Bitterroot Valley Sanitary Landfill, Inc. agree to provide DEQ and its representatives and contractors and all representatives and contractors of any person conducting remedial actions approved by DEQ on the Subject Property access at all reasonable times to the Subject Property.
7. At all times after Charles Mann and/or the Bitterroot Valley Sanitary Landfill, Inc. conveys its interest in the Subject Property and no matter what person or entity is in title to or in possession of the Subject Property, Charles Mann and/or the Bitterroot Valley Sanitary Landfill, Inc. and their agents shall retain the right to enter the Subject Property at reasonable intervals and at reasonable times of the day in order to inspect for violations of the Restrictive Covenants contained herein.
8. The provisions of Paragraphs 1 through 7 governing the use restrictions of the Subject Property shall run with the land and bind all holders, owners, lessees, occupiers, and purchasers of the Subject Property. These restrictive covenants apply in perpetuity and every subsequent instrument conveying an interest in all or any portion of the Subject Property shall include these Restrictive Covenants.
9. Charles Mann and/or the Bitterroot Valley Sanitary Landfill, Inc. shall cause the requirements of these Restrictive Covenants to be placed in all instruments which convey an interest in the Subject Property and shall file this document with the county clerk and recorder in Ravalli County, Hamilton, Montana.

IN WITNESS WHEREOF, Charles Mann and the Bitterroot Valley Sanitary Landfill, Inc. has executed this Declaration of Restrictive Covenants on Real Property as of the first date written above.

BITTERROOT VALLEY SANITARY
LANDFILL, INC.

By: Charles Mann, President

CHARLES MANN, Individually

State of _____)
:ss.
County of _____)

On this ____ day of _____, 2002, personally appeared Charles Mann, before me, a Notary Public for the State of _____, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same, as President of Bitterroot Valley Sanitary Landfill, Inc., and individually.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.

(SEAL)

NOTARY PUBLIC FOR THE STATE OF _____
Residing at _____
My Commission Expires: _____